

# **BOROUGH OF OGDENSBURG LAND USE BOARD MINUTES**

**MEETING DATE:** April 26, 2016

**CALL TO ORDER:** The meeting of the Ogdensburg Land Use Board was called to order at 7:04 PM.

## **PLEDGE OF ALLEGIANCE**

### **STATEMENT OF COMPLIANCE:**

The notice requirement of P.L. 1975, Chapter 231, Sections 4 and 13 have been satisfied with a schedule of all meetings together with the time, location and agenda of same being sent to the NEW JERSEY HERALD and the NEW JERSEY SUNDAY HERALD and posted on the bulletin board at the Borough Hall on January 26, 2016.

### **1. OATHS OF ALLEGIANCE:**

The following members were sworn in by Attorney Haggerty:

<i>Councilman Rob McGuire</i>	-	<i>Class III Member</i>
<i>John Kibildis</i>	-	<i>Class II Member</i>
<i>Thomas Horuzy</i>	-	<i>Alternate</i>

### **2. APPRECIATION**

Board Members thanked the Mayor for the new chairs and the name plates.

**3. ROLL-CALL:** **Present:** Armstrong, Andrews, Ciasullo, Fierro, Fitzgibbons, Honig, Horuzy, Kibildis, McGuire, Nasisi, Rizzo and Telischak  
**Professionals Present:** Gene Buczynski and William Haggerty, Esq.

### **4. APPROVAL OF MINUTES:**

A motion to approve the minutes from the January 26, 2016 meeting was made by John Fierro, second by Patrick Fitzgibbons with Armstrong, Ciasullo, Honig and Telischak also in favor and Fitzgibbons, Kibildis, McGuire, Rizzo, Nasisi and Horuzy abstaining.

### **5. CORRESPONDENCE**

Regarding the memo to the Finance Department, the last two invoices were approved by the Chairman and submitted to the Finance Dept. This was done per the Board's approval at the January meeting to allow the Chairman to sign off on the bills and vouchers.

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### 6. ATTORNEY'S ANNUAL REPORT

Chairman Armstrong told Attorney Haggerty that we normally receive an annual report from Dolan and Dolan. Attorney Haggerty stated that the Municipal Land Use Law has a provision for an annual report. It doesn't say what happens if you don't do it. It basically is for where variances are granted so that there is an advisory to the governing body to say maybe we need to change the ordinances because a lot of people have come in for relief. If you were like the Boards I work for, your Board probably did not have a lot of activity last year.

### 7. ZONING VIOLATIONS

Chairman Armstrong stated that Mr. Kervatt is present and that he was looking into what the Board perceived to be zoning violations.

#### a. Interstate Industrial Management, Cork Hill Road/Passaic Ave., BL 21 Lot 12.02

Mr. Kervatt inspected the subject property and found violations of an outdoor assembly of guard rails, outside storage of guard rails, storage of unregistered motor vehicles, storage of scrap metal, parking of FICOR trucks, old trailers, old office trailers, storage containers, soil mining, and miscellaneous debris. My letter stated that there are no approvals to conduct any type of business or activity. If approvals aren't obtained from the Borough, complaints will be signed to have the matter heard in Court. Any documentation to the contrary, please provide it for my review. Does he have a Certificate of Occupancy to perform a business at that location? He is not occupying anything. You don't need a Certificate of Occupancy for vacant land but a Zoning Permit is required.

Mr. Andrews recalled that when the applicant came before the Board in 2009, Mr. Fisher proposed construction of a building which would be rented out to tenants.

Finally, on January 28<sup>th</sup> John Ursin, applicant's attorney, sent a letter stating that they are progressing with an architect and an engineer to produce a proposed site plan for the construction of a commercial building. Discussion continued on whether any approvals were ever given to the applicant. Mr. Fitzgibbons stated that a Memorialization of Findings was compiled listing all of the conditions to be met for the Preliminary and Final Site Plan approval. The Planning Board files indicate that a Site Plan Approval with Conditions was signed off on November 17, 2003. The applicant never went ahead with the construction of a building. The applicant is in violation of the approval because he is conducting a business on the property without a building.

Mr. Nasisi could not participate as a Board Member since he is an adjacent property owner to the applicant and had to wait for the Public portion of the meeting.

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Mr. Kervatt informed the Board that after numerous calls, he received a phone call from Attorney Ursin at 2:50 P.M. this afternoon. Mr. Kervatt asked Attorney Ursin to send something in writing and the response stated that “as a follow-up to our telephone conversation, my clients have been working with an architect and engineer. We hope to have plans completed shortly. The plan is to file an application in May.” Mr. Kervatt suggested establishing a time limit since this has been going on since November which will be six (6) months.

Chairman Armstrong asked Attorney Haggerty if it is the Board’s or the Township Attorney’s responsibility to enforce these violations. Attorney Haggerty advised the Board that it is the responsibility of the Code Enforcement Officer, Kevin Kervatt.

As the Code Enforcement Officer, Mr. Kervatt recommended giving Mr. Fisher until June 1<sup>st</sup> to submit an application. If we do not receive anything by that date, then Mr. Kervatt will issue five or six summonses to appear in court. What will happen or what typically happens, the Judge will combine a few of the summonses to say three and fine each one \$1,000.00 apiece. If the applicant comes into compliance, the fine could be reduced to \$250.00 each or if the applicant doesn’t, he can be fined \$250.00 per day. We probably need the Court to do what the Court does. After a lengthy discussion, the Board Members agreed with the timeline proposed by Mr. Kervatt.

Mr. Andrews inquired if a Stop Work Order can be issued. Mr. Kervatt answered that a Cease and Desist Order can be issued. Chairman Armstrong said before we pull that trigger, and asked Attorney Haggerty if this matter is under the umbrella of the Board’s responsibility. Attorney Haggerty responded that it is appropriate to bring this matter to the attention of the Zoning Officer.

Board Members recalled that Interstate Industrial Management did have some financial problems in the past. There are a lot of millings on the ground where they are parking their vehicles right now. They are investing a lot of money right now on the property.

### **8. OPEN TO THE PUBLIC**

A motion to open to the public was made by John Fierro, second by Elliott Honig with all in favor. Mr. Nasisi, 97 Passaic Avenue, restated that Interstate did experience money problems in the past. Then they started to do okay and they have invested a lot in the septic system and the soil work that had to be done. Most of the heavy equipment (white tractors) is new and has only been there within the last two or three years. Mr. Nasisi said that he believes this company wants to stay in the Borough. The junk trailers are on Interstate’s other lot.

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### 9. CLOSE TO THE PUBLIC

A motion to close to the public was made by John Fierro, second by John Kibildis with all in favor.

### 10. ZONING VIOLATIONS

b. Delta Gas Station, 186 Main Street, Block 26.02 Lot 2

Chairman Armstrong stated that Service Stations are not a Permitted Use but a Conditional Use in the Borough. The Borough's Land Development Ordinances point out the conditions for a service station and the one which triggered our zoning problem was the fact that he has more than six (6) motor vehicles on site. Mr. Kervatt said that his first interaction with Mr. Claquin, he did pretty well. He probably pulled fifteen (15) cars. Now he is back to twenty (20) vehicles. That is where Mr. Kervatt was prior to the meeting.

Borough Ordinance Section 3-4.2 is a Police Ordinance. The Ordinance is printed in the Borough newsletter and states: It shall be unlawful for any person to place, keep, store or maintain any junk automobiles, or junk automobile body or separately the parts of a junk automobile or automobile body, which is exposed outside of an enclosed building on any tract of land within the Borough. Borough Ordinance #3-4.1 describes Junk vehicles as any automobile, truck, school bus, or motor vehicle of any kind, which is no longer licensed for travel on the public highways and is no longer in actual use as a motor vehicle for transportation purposes.

A lengthy discussion continued regarding the amount of vehicles on site and the safety issues regarding a line of site at the corner of Glenbrook and Main Streets. It was decided that Mr. Kervatt will send another letter indicating that Mr. Claquin has until June 1<sup>st</sup> to remove the vehicles or he will issue a summons. Mayor Ciasullo will speak to Mr. Claquin regarding the line of site issue at the corner of Glenbrook Road and Main Street (Route 517).

Mr. Fitzgibbons inquired if the auto body shop on Main Street is in operation. Mr. Kervatt stated that when he visited the premises several times there was no one there. Mr. Fitzgibbons stated that he recalls a permit being issued for a detailing shop only probably in the 1970's but Mr. Kervatt said that he recalls Lenny Helmstetter giving him a zoning permit for an auto body shop in the 1980's. Mr. Kervatt said that he will check in the files.

Mr. Honig stated that there is junk in front of the Ogdensburg and Mine Sign which has been there for two weeks.

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**11. OLD BUSINESS/NEW BUSINESS**

a. Financial Disclosure Statements

Chairman Armstrong said this is very important because if it isn't done, you will be fined \$250.00. You must have this done by the end of the month which is this week.

**12. CHAIRMAN'S AGENDA**

a. Invoice Tracking Report – no problems.

b. Trial Balance Escrow Report – okay.

c. Land Use Board Members 2016 – Mr. Kibildis stated that his cell phone number is incorrect.

**13. ADJOURNMENT**

A motion to adjourn was made by Patrick Fitzgibbons, second by John Kibildis with all in favor. Meeting adjourned at 8:24 P.M.

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Blanche Stuckey  
Land Use Board Secretary

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Date of Approval